

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

ALASKA PACIFIC ENVIRONMENTAL SERVICES
ANCHORAGE, LLC, d/b/a ALASKA WASTE

Employer

and

Case 19-RC-15096

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 302, AFL-CIO

Petitioner

**REGIONAL DIRECTOR'S DECISION AND
DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record¹ in this proceeding, the undersigned makes the following findings and conclusions.²

SUMMARY

The Employer is a limited liability company with an office and place of business located in Anchorage Alaska, where it is engaged in the business of providing refuse services to the Municipality of Anchorage and various communities in Alaska.

The Petitioner filed the instant petition covering the Employer's nine truck shop employees. The Employer currently employs seven mechanics, an oiler and a lead mechanic in the truck shop, which is located at the Employer's Anchorage, Alaska facility. However, the Employer contends that the petitioned-for unit is not appropriate because it fails to include the Employer's container shop, which employs five welders and a painter. The container shop is located in another building within the Employer's Anchorage operations.

Based on the record evidence and the parties' respective briefs, I find that the petitioned-for unit is appropriate and shall, therefore, direct an election in that unit, excluding the Employer's container shop employees.

Below, I have set forth a section detailing the record evidence relating to the Employer's operations and factors the Board examines to determine an appropriate unit in cases of this

¹ Both the Employer and Petitioner filed briefs, which were duly considered.

² The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. The labor organization involved claims to represent certain employees of the Employer and a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

nature. Following the Record Evidence section is my analysis of the applicable legal standards in this case, and my conclusion, Decision and Direction of Election.

I.) RECORD EVIDENCE

A.) The Employer's Operations

The Employer employs 197 employees throughout the State of Alaska, 120 of which are employed at the Employer's Anchorage, Alaska location.³ The Employer operates out of a campus consisting of five buildings located in the Dowling area of Anchorage, Alaska, where it contracts with the Municipality of Anchorage and local businesses to provide refuse collection and compacting services.

One building of the campus, referred to as building 25A, houses a recycling facility run by a third party, Smurfit-Stone. The recycling operations are located at one end of building 25A while the Employer's container shop employees are stationed at the other end of the building. Located about 300 feet away from the container shop is another building housing the Employer's truck shop where the petitioned-for mechanics, oiler, and mechanic lead are stationed.⁴ There is a painting bay in each shop. The remaining Employer buildings consist of an office; a sandblast building, which presently stores tires for a company contracted to maintain tires; and a fuel station.

The Employer's Anchorage operation employs a rolling fleet of over 50 refuse trucks, or rolling stock, the maintenance of which is provided by the petitioned-for truck shop employees. The mechanics' work consists primarily of all mechanical repairs to the trucks and rolling stock, but the mechanics do not perform engine overhauls. Mechanics determine the nature and extent of their work on the rolling stock by evaluating those vehicles or by receiving reports from the drivers about their respective trucks. The lone oiler employed in the truck shop is responsible for changing out and maintaining fluid levels in the refuse trucks/rolling stock.

The Employer also employs a fleet of over 1,400 containers, or stationary stock, including dumpsters, cans, bags, totes and containers with compactors, the repair of which is assigned to the container shop. Work on the containers or stationary stock is performed by the Employer's container shop employees (welders and a painter). The welders work includes hydraulics and welds. The record hints that any complex mechanical work on hydraulics is performed by the Employer's mechanics but there are essentially no details in the record to make a finding in this regard.

The Employer recently inaugurated a work order system where rolling stock work is billed exclusively to the truck shop and stationary stock work is billed exclusively to the container shop.

The Employer presented three witnesses at the hearing: Bobby Cox, the Employer's General Manager; Jeff Riley, Senior Manager of Operations, who reports directly to Cox; and

³ Except for the employees at issue, truck drivers and swamper, the record did not contain job titles and/or descriptions for any other employees of the Employer.

⁴ Although the Employer lists its 6301 Rosewood St., Anchorage address as the address of its only facility located in Anchorage, I note that the street address of the truck shop is 6325 Rosewood St. and Building 25A, housing the container shop, has a street address of 6171 Rosewood St.

Sharrie Sheridan, Customer & Employee Relations Manager, who reports to the Senior Finance & Administration Manager who, in turn, reports directly to Cox.⁵

Not testifying, but part of the Employer's organizational structure is Steve Redmond, who directly supervises the truck shop.⁶ Redmond reports to the maintenance manager, Lee Gronemyer, who reports to Riley. Doug Daniels directly supervises the container shop and reports to Riley.

B.) Relevant Community of Interest Factors

1.) Wages and Compensation

The record does not contain the actual wages of any of the Employer's employees, including the employees at issue. However, the record reveals that the Employer utilizes pay grades for various positions and within each grade is a wage range.⁷ The record further reveals the following grades, ranges and positions for the employees at issue herein.

<u>Grade</u>	<u>Wage Range</u>	<u>Positions Covered</u>
2	\$9.64 - \$14.46	Welder Assistant
4	\$13.46 - \$20.18	Oiler, Painter, Welder 1
6	\$15.84 - \$23.76	Mechanic 1, Welder 2
8	\$18.60 - \$27.90	Mechanic 2, Welder 3
10	not supplied	Mechanic 3 ⁸

Although the wage range for grade 10 was not supplied, testimony revealed that the wage range for grade 10 is higher than the other grades.

2.) Shifts

Shop and container employees work mostly four 10-hour shifts a week, Monday through Thursday or Tuesday through Friday. However some employees in each shop work a 5-day shift. The record does not contain information detailing which employees are on what shift or information on the shifts of other employees.

⁵ The Petitioner called no witnesses.

⁶ The Parties stipulated to the exclusion of Steve Redmond, shop supervisor, as a statutory supervisor in that he effectively recommends hiring and firing employees and has authority to assign overtime and responsibly directs the maintenance, or truck shop employees. There is no contention by the parties that any of the other managers should be included in any unit I find appropriate.

⁷ The Employer did not submit the grades or wage ranges for any other employee classification or whether other classifications share the same wage ranges of the employees at issue herein.

⁸ Although some of the grades list preferred experience or minimal years of experience, there is no evidence setting forth the actual experience of any of the employees at issue.

3.) Benefits

All employees enjoy the same benefits company-wide, which include dental, medical, vision, 401(k) with Employer matching contribution of 3 percent, flexible spending accounts, and life and disability insurance. Pay raises are also determined by a formula used by the Employer on a company-wide basis and are processed based on evaluations completed by supervisors. Those evaluations utilize a particular form and all supervisors are trained on how they are to properly complete that form. The record does not reveal the nature and extent of this training. I note, however, that the Employer submitted only a blank evaluation form and no evaluation actually completed and issued to an employee.

4.) Supervision

As noted above, the truck shop mechanics and oiler are directly supervised by Steve Redmond and the container shop welders and painter are directly supervised by Doug Daniels. General Manager Cox testified that when a mechanic is brought over to the container department to complete a very difficult welding job on a compactor, that mechanic will be supervised by Daniels while he is performing container shop duties. The record, however, does not show the frequency of such cross-supervision or any instance where Redmond conversely supervised container shop employees. In that regard, the only document proffered into evidence showing any cross supervision between the two shops is a single work order showing that a mechanic was assigned, following the filing of the instant petition, to assist a welder with installing a compactor at a Target retail store. Moreover, work at the Target store was billed to the container shop; thus, suggesting Daniel's supervision of that work.

Bobby Cox testified that when, for example, a mechanic is in the container shop, the mechanic will be supervised and disciplined by container shop supervisor Daniels. However, the only instance of such supervision to which Cox testified was when a mechanic was assigned container shop welding work. When questioned further in this regard by the Hearing Officer, Cox admitted Daniels has never actually disciplined any mechanic. Additionally, instances of such interchange involving a mechanic working in the container shop are not detailed in the record.

Indeed, the only instance of discipline in the record is from the testimony of Senior Operations Manager Riley. Riley describes the procedure used on one occasion to discipline a mechanic and a welder who engaged in a fist fight in the container shop about 2 years ago. In that situation, both Daniels and Redmond, along with Sharrie Sheridan of HR and Riley, were involved in deciding discipline for the two employees. The record, however, does not specify the precise roles Redmond and Daniels played in the process.

5.) Qualifications, Training Skills and Job Functions

The record shows that the Employer prefers experience in some of the jobs at issue, and in some cases requires a minimum number of years of experience. However, the experience levels of the actual employees are not mentioned in the record. As for welding, it appears one mechanic possesses superior welding skills to that of the container shop welders and this mechanic once provided training to the container shop welders on the aluminum welding process. It also appears that welders do not perform the higher mechanical functions of the mechanics. In that regard, the record reveals that welders will change the oil and repair the

lights on the few vehicles that the welders utilize in performing their work for the Employer. However, the more complex work on those vehicles is contracted out to a third party.

Apparently, there is some training in common between the container and truck shops when a vendor, for example, puts on a 1-week class concerning the repair of compactors. Yet the frequency and/or number of such classes are not mentioned in the record. Further, there is no mention whether the training results in some sort of certification for the attending employees and/or whether the training is mandatory.

6.) Contact

The record recounts a few instances of contact. For example, the Target work mentioned above shows one mechanic and welder working together to install a compactor. However, no other work orders were submitted into the record to detail the nature and extent of such joint work. Another example of contact mentioned in the record was the vendor training described above. There is also testimony that the painter will eat in the office cafeteria, which is the closest cafeteria to the truck shop. Yet, the container shop has its own eating area. Further, the painter usually eats alone while the other employees of both shops usually leave the Employer's premises for meal breaks. The record does not reveal whether the leaving employees share their meal breaks together or have those breaks at the same time. Another example of purported contact is employees from both shops use the same parts shop. But, again, the record does not contain the nature of or frequency of any contact that occurs at the parts shop.

7.) Interchange⁹

As with the evidence for employee contacts, the evidence for interchange lacks specificity as to frequency and duration. Cox testified that when there is interchange, the work is billed through the shop responsible for that work. But, as shown above, the Employer proffered into evidence only one work order reflecting such interchange. The work order is billed to the container department for 10 hours work a mechanic performed at the local Target store assisting a container shop employee install a compactor. Riley also testified that one mechanic, Roger King, does the major welding projects, but Riley could not recollect one specific example of this and admitted King's performance of such duties was "not very frequent."

There's some evidence that the two shops share forklifts and may help each other loading and unloading material. Further, both groups of employees purportedly help chip ice off of trucks in winter and share a bearing press. But here, again, there is no evidence as to the frequency and extent of such contact and/or interchange.

Testimony also revealed that when a shipment of 3500 new roll carts was delivered in March of this year to the Employer, those containers were put together by welders, mechanics and operations employees outside the Employer's container and truck shops. In any event, the job was limited to bolting lids on containers and the like. No welding was required in putting the containers together, no evidence was presented that the task required any skill, and there is no record evidence as to the time the assembly required for completion or the frequency with which

⁹ The Employer also contends that over the next 3 years, with new trucks arriving, the petitioned-for mechanics will be working less on trucks and more on needed repairs to containers inasmuch as new containers have become much more expensive to buy. However, there is no evidence showing that this change in the nature and extent of the mechanics' work is imminent.

the need exists for employees from the two shops and operations to work together on such projects.

The Employer also supplies some tools used in common by the two groups of employees (these tools were not specified in the record). However, the mechanics also have their own tools specific to their jobs, as do the welders, and each have their tools locked up after working hours.

There is evidence that mechanics perform painter duties, but such overlap in work is limited to simply using a spray gun to prime trucks with a rust inhibitor. There is no evidence that anyone besides the painter, Jonathan Spartz, uses the paint booths located in each shop except that if the painter is on vacation, a mechanic or container employee “might” use the paint booth.

As for permanent transfers, since the Employer acquired ownership of the operation in 2005, there have been no permanent transfers between the two shops.¹⁰

8.) Functional Integration

As noted above, the truck shop employees work on rolling stock and the container shop employees work on non-rolling stock. Thus, their work is not functionally integrated.

9.) Bargaining History

There is no bargaining history for the shop employees at issue.

II.) ANALYSIS

The Board’s procedure for determining an appropriate unit under Section 9(b) is to examine first the petitioned-for-unit. If the unit sought by the petitioning labor organization is appropriate, the inquiry ends. *P.J. Dick Contracting, Inc.*, 290 NLRB 150, 151 (1988); *Bartlett Collins Co.*, 334 NLRB 484 (2001).

Section 9(b) of the Act does not require that a unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit. Rather, the Act only requires that the unit be “appropriate.” *Overnite Transportation Co.*, 322 NLRB 723 (1996); *Parsons Investment Co.*, 152 NLRB 192 fn. 1 (1965); *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950), enf’d. 190 F.2d 576 (7th Cir. 1951). A union is, therefore, not required to seek representation in the most comprehensive grouping of employees unless “an appropriate unit compatible with that requested does not exist.” *P. Ballantine & Sons*, 141 NLRB 1103 (1963); *Bamberger’s Paramus*, 151 NLRB 748, 751 (1965); *Purity Food Stores, Inc.*, 160 NLRB 651 (1966). Thus, there is ordinarily more than one way in which employees of a given employer may appropriately be grouped for purposes of collective bargaining. *General Instrument Corp. v. NLRB*, 319 F.2d 420, 422-3 (4th Cir. 1962), cert. denied 375 U.S. 966 (1964); *Mountain Telephone Co. v. NLRB*, 310 F. 2d 478, 480 (10th Cir. 1962).

¹⁰ The Employer also contends that the record evidence shows that mechanics recently worked in collaboration with welders to create an aluminum bay at the container shop. However, the record did not indicate what such “collaboration” consisted of or the amount of time dedicated to the “collaboration.” Without such details, I cannot assign much weight to this record evidence.

In deciding whether a petitioned-for unit is an appropriate unit, the Board's focus is on whether the employees at issue share a community of interest. *Overnite Transportation Co.*, 322 NLRB 723, 724 (1996). Factors considered by the Board in determining community of interest among employees include:

[A] difference in method of wages or compensation; different hours of work; different employment benefits; separate supervision; the degree of dissimilar qualifications, training and skills; differences in job functions...the infrequency or lack of contact with other employees; lack of integration with the work functions of other employees or interchange with them; and history of bargaining.

Kalamazoo Paper Box Corp., 136 NLRB 134, 137 (1962). Applying these factors here, I find the petitioned-for unit is an appropriate unit.

A.) Relevant Community of Interest Factors

1.) Wages and Compensation

As for the wages, the Employer's wage range progressions through the different grades show that the mechanics' grades, and thus wages, progress beyond the highest grade for welders. As for the oiler, I note that as a position analogous to a helper, he starts at a higher grade than a welder's helper starts. Thus, the differential in the range of the pay grades for the petitioned-for unit also points to the Employer's recognition of the superior skills demanded of the mechanics by the Employer.

2.) Shifts

The shifts for the two shop employees appear to be comparable.

3.) Benefits

All employees of the Employer enjoy the same benefits. As such, the significance of the employees of the two shops sharing the same benefits carries less weight.

4.) Supervision

Supervision is separate, as Steve Redmond supervises the truck shop and Doug Daniels supervises the container shop. The Employer contends that any supervisor may discipline or supervise the work of any shop worker depending on where that employee is working and the project the employee is involved in; thus, there is common supervision over the employees of the two shops. However, the record evidence is insufficient to establish such common supervision. The Employer, in support of its claim of common supervision over the two shops, relies on testimony of its witness and general manager, Bobby Cox. Cox testified that when, e.g. a mechanic is in the container shop, the mechanic will be supervised and disciplined by container shop supervisor Daniels. However, the only instance of such supervision to which Cox testified was when a mechanic was assigned container shop welding work. When further questioned by the Hearing Officer, Cox admitted Daniels has never disciplined a mechanic. Cox's testimony in this regard falls short of showing that Daniels' supervision is anything more than supervision limited to routine direction in isolated instances of temporary interchange. The Board has found such routine direction does not warrant a finding of common supervision. See *Ore-Ida Foods*, 313 NLRB 1016 (1994), enfd. 66 F.3d 328 (7th Cir. 1995).

5.) Qualifications, Training Skills and Job Functions

As for the skills and qualifications mechanics possess compared to those of welders, I find the record evidence established the skill sets of the two employee groups are dissimilar in kind and degree. The record shows that although the Employer does not require any special certifications of its employees, the mechanics perform all but major engine warranty work on the Employer's trucks and rolling stock while the container shop employees work generally solely on the containers/non-rolling stock. Although there is evidence that welders will change the oil and repair the lights on their vehicles, the testimony shows that welders' mechanical work is limited to their few shop vehicles and that any significant mechanical work to be performed on those vehicles is performed by a third party. Such minimal overlap of work does not establish that welders perform the same level of mechanical work as that performed by truck shop mechanics. Moreover, the higher pay provided to the mechanics demonstrates the degree to which the Employer recognizes the distinguishing skills required of its mechanics.

6.) Contact

The record reveals discrete instances of contact, but the extent and frequency of such contact was not detailed by the Employer. Indeed, the Target cost sheet provided by the Employer shows that such records exist yet the Employer only provided one instance of a mechanic working alongside a welder on a job billed to the container shop. Conversely, the Employer did not present any truck shop bills showing container shop employees performing truck shop work. Thus, the Employer's showing in this regard falls short of demonstrating that the petitioned-for unit is inappropriate. See *Overnite Transportation Co*, 331 NLRB 662 fn.8 (2000).

Moreover, the physical separation between the truck and container shops and the fact that work performed by these two shops is separately billed in the Employer's operations, further supports finding the petitioned-for unit is appropriate.

7.) Interchange

As for interchange between the two groups of employees, I find such interchange insufficient to destroy the separate identity maintained by the maintenance shop. Although Cox testified that such interchange has happened "on several occasions," the evidence fails to support his claim. Without evidence to establish the nature and extent of purported interchange, the Board has found that conclusory testimony offered by managers unsupported by other evidence is insufficient to establish any significant contact or interchange. See *Sears, Roebuck & Co.*, 304 NLRB 193 (1991); *Overnite Transportation* 331 NLRB at n.8.¹¹

¹¹ As noted above, the Employer contends that over the next 3 years, with new trucks arriving, the petitioned-for mechanics will be working less on trucks and more on needed repairs to containers because new containers have become much more expensive to buy. However, there is no evidence the mechanics will be doing so imminently and there is no evidence regarding whether the current expense of new containers will continue to stay relatively expensive over the same time period and/or whether such costs fluctuate with other market factors or conditions. Regardless, the lack of record evidence in this regard fails to compel the inclusion of the container shop employees in the petitioned-for unit. See *CCI Construction*, 326 NLRB 1319 (1998).

8.) Functional Integration

The record reveals that the work of the truck shop and container shop is not functionally integrated. That is, neither shop is dependent upon the work of the other to perform the critical aspect of their respective functions. Again, the separate billing functions for the shops support this finding. Thus, this factor weighs in favor of the unit sought by Petitioner.

9.) History of Bargaining

There is no bargaining history with the present or previous employers. However, the Employer contends there is a history of organizing at the facility and refers to a prior appropriate unit determination issued by this Region in *Anchorage Refuse, Inc.*, 19-RC-13197 (1996), which involved Petitioner, the same facility and a predecessor employer. However, the Board has found that bargaining on a basis which deviates, even substantially, from a prior unit determination is not controlling in a subsequent proceeding in which a redetermination of the unit is sought. See, generally, *Pennsylvania Garment Mfrs. Assn.*, 125 NLRB 185 (1960).

In any event, the Employer's reliance on *Anchorage Refuse, Inc.*, 19-RC-13197 is misplaced as the nature of the operation at issue there is distinguishable from the nature of Employer's current operation. Specifically, *Anchorage Refuse* concerned a predecessor employer's operation of the Anchorage facility at which there were two shops, but only one shop was petitioned for by Petitioner. The Acting Regional Director in that prior case found the petitioned-for unit inappropriate because, among other things, both shops employed the same mechanics performing work on the same equipment. Here, that is not the case as the truck and container shops employ different classifications of employees who work on different types of equipment, with each shop's respective work being separately billed. Indeed, in many instances, Anchorage Refuse employees from both shops often performed different work albeit on the same vehicle. Thus, the employees employed by Anchorage Refuse were functionally integrated – here, such is not the case.

The record thus shows that the employees in the petitioned-for unit possess distinct skills, have separate supervision, work in a different building, and for accounting cost purposes, their work is separately billed and functionally separate. The petitioned-for employees are also paid on a grade system that progresses beyond that of the container shop employees. Moreover, the Employer did not produce sufficient evidence to establish that the petitioned-for employees and the container shop employees share significant and/or frequent contact and interchange. Although both groups of employees share the same benefits and work similar shifts, so do all of the Employer's employees – in these circumstances, the significance of these shared factors carries less weight relative to the other factors supporting the petitioned-for unit.

In sum, I find that the record evidence fails to demonstrate that the petitioned-for unit is inappropriate.¹²

¹² The Employer's reliance on *Vincent Ippolito, Inc.*, 313 NLRB 715 (1994) that the appropriate unit for a garbage disposal contractor must include both transfer station and maintenance shop employees is inapposite. In *Ippolito*, the petitioner sought a unit of all unrepresented employees with the exception of office clerical employees. The Board found that unit an appropriate unit and did not consider the appropriateness of a petitioned-for maintenance unit.

III.) **CONCLUSION**

In view of the above, record evidence and the parties' briefs, I shall direct an election in the following appropriate Unit:

All regular full-time and part-time mechanics and oilers employed by the Employer in its truck shop operations located in Anchorage, Alaska; excluding office clericals, truck drivers, swampers, sheet metal fabricators, welders, painters, all other employees, managers, guards and supervisors as defined in the Act.

There are approximately 9 employees in the Unit found appropriate.

IV.) **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the Unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the Unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the International Union of Operating Engineers, Local 302, AFL-CIO.

A.) **List of Voters**

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 19 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of

The Employer's reliance on *TDK Ferrites Corp.*, 342 NLRB 1006 (2004) is also inapposite. In *TDK Ferrites*, contrary to the situation here, the Board found production and maintenance employees' work so integrated that there was no separate identity. The Board found both groups of employees had common duties, common supervision, frequent and significant amounts of interaction and interchange, and no separate work areas. The community of interest factors present in *TDK* are not present here.

sufficiently large type to be clearly legible. The Region shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, 915 Second Avenue, 29th Floor, Seattle, Washington 98174, on or before **June 20, 2008**. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (206) 220-6305. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

B.) Notice Posting Obligations

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

C.) Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **June 27, 2008**. The request may be filed through E-Gov on the Board's web site, www.nlrb.gov, but may not be filed by facsimile.¹³

DATED at Seattle, Washington, this 13th day of June, 2008.

/s/ Richard L. Ahearn
Richard L. Ahearn, Regional Director
National Labor Relations Board, Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, WA 98174

¹³ To file a request for review electronically, go to www.nlrb.gov and select the E-Gov tab. Then click on the E-filing link on the menu. When the E-file page opens, go to the heading Board/Office of the Executive Secretary and click the "File Documents" button under that heading. A page then appears describing the E-filing terms. At the bottom of the page, check the box next to the statement indicating that the user has read and accepts the E-File terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the "Submit Form" button. Guidance for E-Filing is contained in the attachment supplied with the Regional office's original correspondence in this matter and is also located under "E-Gov" on the Board's website, www.nlrb.gov.